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# STATE OF INDIANA

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DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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**TO:** All County Assessor and County PTABOAs

**FROM:** Micah G. Vincent, Commissioner

**RE:** Burden of Proof in Assessment Appeals, Senate Enrolled Act 266-2014

**DATE:** May 7, 2014

On March 25, 2014, Governor Pence signed into law Senate Enrolled Act 266-2014 (“SEA 266”), effective upon passage, which changes the law with respect to the burden of proof in property tax assessment appeals before the county property tax assessment board of appeals (“PTABOA”). This memorandum addresses these changes. Please note that this memorandum is an informative bulletin and is not intended to be a substitute for reading the law.

Section 1 of SEA 266 repeals IC 6-1.1-4-4.3, enacted during the 2013 regular session, which gave to the county assessor or township assessor (if any) (“local assessor”) the burden of proving that an assessment on real property not assessed using the income capitalization approach is correct, if the gross assessed value (“GAV”) was reduced by the PTABOA for the latest assessment date covered by the appeal, and the assessment increases the GAV above the reduced value set by the PTABOA.

Section 2 amends IC 6-1.1-15-17.2, which places the burden of proof on the local assessor if the assessment that is subject to the appeal is increased more than five percent (5%) over the prior year’s assessment for that property.

In calculating the change in the assessment, the prior year’s assessment is

- 1) the original assessment for that prior tax year; or
- 2) the assessment for that prior tax year
  - a. as last corrected by the local assessor;
  - b. as stipulated or settled during an informal conference with the local assessor; or
  - c. as determined by the PTABOA under IC 6-1.1-15-1.

If the local assessor fails to meet the burden of proof, the taxpayer may introduce evidence to prove the correct assessment. If neither the assessing official nor the taxpayer meets the burden of proof, the assessment reverts to the prior year’s assessment.

Under new subsection IC 6-1.1-15-17.2(d), if the GAV of real property for an assessment date that follows the latest assessment date that was the subject of an appeal conducted under IC 6-1.1-15 increases above the GAV of the real property for the latest assessment date covered by the

appeal, the local assessor has the burden of proving the assessment is correct, regardless of the amount of the increase. Subsection (d) does not apply for an assessment of real property valued using the income capitalization approach in the appeal.

The amendments to IC 6-1.1-15-17.2 apply to all appeal or reviews pending on the effective date of the amendments made in the 2014 Regular Session, and to all appeals or reviews filed thereafter.

### **Contact Information**

Questions may be directed to Staff Attorney David Marusarz at (317) 233-6770 or [dmarusarz@dlgf.in.gov](mailto:dmarusarz@dlgf.in.gov).